

REMARKS

Claims 1-30 and 32 are currently pending in the subject application and are presently under consideration. Claims 1 and 30 have been amended as shown at pages 2-6 of the Reply.

Applicants' representative appreciates the Examiner's acknowledgement that claims 30 and 32 would be allowable if amended to overcome the rejection under 35 U.S.C. §112, second paragraph. Independent claim 31 has been amended to accordingly.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1 and 30 Under 35 U.S.C §112

Claims 1 and 30 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 30 have been amended to correct the antecedent basis issues identified by the Examiner.

II. Rejection of Claims 1-29 Under 35 U.S.C. §102(e)

Claims 1-29 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ehlers *et al.* (US 2004/0133314). Applicants' representative respectfully requests that this rejection be withdrawn for at least the following reasons. Ehlers *et al.* fails to teach or suggest all features of the claimed subject matter.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes each and every limitation set forth in the patent claim. *Trintec Industries, Inc., v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 U.S.P.Q.2D 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The invention as claimed relates to dynamic distributed energy management by control of loads and optimization of energy. The system is scalable as addition of new components (load controllers, computers, machines etc.) can be recognized at any time. When demand will exceed

a threshold level, then the load controllers collaborate to decide which loads to connect and shed. Moreover shedding and connecting of the load is also similarly facilitated by categorization under class. In particular, independent claim 1 recites *a plurality of loads associated with a system, wherein at least one load is a member of a class; all members of a class are connected to an energy supply if connecting the entire class would not bring total system demand above an optimum level*. When a load can be connected to a power supply, connecting all of the members of the load's class helps to avoid an impractical or dangerous condition in case the load is related to other loads that are part of a larger machine process. For example, if two liquid containers feed an inline mixing process and the pump from one of the containers is going to be connected, the pump from the other container should also be connected. Making both pumps members of a class facilitates this objective. Likewise, class membership applies to shedding loads, whereby if a load is going to be shed from the power supply all members of its class will also be shed to prevent systemwide issues. Ehlers *et al.* does not consider the consequences of shedding or adding loads that may be related to other loads under a particular class. The cited reference is silent regarding class membership for loads and connecting or shedding all loads within a class to a power source in unison. The section of the prior art reference cited in the Office Action merely indicates that the system will monitor major loads or will monitor all loads depending on the embodiment. However, it does not disclose class membership for loads and connecting all loads within a class in unison if the total demand from the loads in the class would not exceed an optimum level.

Moreover, independent claim 9 (and similarly independent claims 19, and 25) recite *a multitude of networked load controllers associated with the plurality of machines, wherein the controllers collaborate and execute an optimization algorithm to determine how a load should be shed across the plurality of machines, wherein the load that is shed is a member of a class and all members of the class are also shed*. As discussed above, Ehlers *et al.* fails to teach class membership of loads and acting on all members of class in unison for shedding or connecting to a power supply.

In view of the foregoing, applicants' representative respectfully submits that Ehlers *et al.* fails to teach or suggest all limitations of applicants' invention as recited in independent claims 1, 9, 19, and 25 (and claims 2-8, 10-18, 20-24, and 26-29 that depend there from), and thus fails to anticipate the subject claimed invention. Accordingly, this rejection should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP327US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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